



**United Nations**

# **Report of the Committee on Relations with the Host Country**

**General Assembly**  
**Official Records**  
**Fifty-seventh Session**  
**Supplement No. 26 (A/57/26)**

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*Note*

Symbols of United Nations documents are composed of capital letters combined with figures. Mention of such a symbol indicates a reference to a United Nations document.

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## I. Introduction

1. The Committee on Relations with the Host Country was established pursuant to General Assembly resolution 2819 (XXVI) of 15 December 1971. The General Assembly, by its resolution 56/84 of 12 December 2001, decided to include in the provisional agenda of its fifty-seventh session the item entitled "Report of the Committee on Relations with the Host Country". The present report is submitted pursuant to resolution 56/84.
2. The report is composed of four sections. The recommendations and conclusions of the Committee are contained in section IV.

## II. Membership, composition, terms of reference and organization of the work of the Committee

3. The Committee is composed of 19 members, as follows:

|               |                                                      |
|---------------|------------------------------------------------------|
| Bulgaria      | Iraq                                                 |
| Canada        | Libyan Arab Jamahiriya                               |
| China         | Malaysia                                             |
| Costa Rica    | Mali                                                 |
| Côte d'Ivoire | Russian Federation                                   |
| Cuba          | Senegal                                              |
| Cyprus        | Spain                                                |
| France        | United Kingdom of Great Britain and Northern Ireland |
| Honduras      | United States of America                             |
| Hungary       |                                                      |

4. The Bureau of the Committee consists of the Chairman, the three Vice-Chairmen, the Rapporteur and a representative of the host country, who attends Bureau meetings ex officio. During the reporting period, Mr. Sotirios Zackheos (Cyprus) continued to serve as Chairman. The representatives of Bulgaria, Canada and Côte d'Ivoire served as Vice-Chairmen, and Mrs. Emilia Castro de Barish (Costa Rica) as the Rapporteur.
5. The terms of reference of the Committee were determined by the General Assembly in its resolution 2819 (XXVI). In May 1992, the Committee adopted, and in March 1994 slightly modified, a detailed list of topics for its consideration, which is set out in annex I to the present report.
6. During the period under review, the Committee held the following meetings: the 210th, on 21 February 2002; the 211th, on 28 May 2002; the 212th, on 4 September 2002; the 213th, on 15 October 2002 and the 214th on \_\_\_\_ October 2002.
7. The Working Group on the use of diplomatic motor vehicles, parking and related matters, established at the 181st meeting, held no meetings during the reporting period.
8. The Working Group on Indebtedness, whose mandate is to consider all the aspects of the problem, did not hold any meetings during the reporting period.

### III. Topics dealt with by the Committee

#### A. Host country travel regulations

9. At the 210th meeting, the representative of Cuba reiterated her Government's position that travel restrictions on diplomats of certain missions and nationalities negatively affected and disadvantaged the ability of those missions to carry out their work. In particular, she referred to a note verbale dated 11 March 2002 sent by the Permanent Mission of Cuba to the United Nations to the United States Mission to the United Nations regarding the denial by the host country of a request to travel for one day outside the 25-mile radius to attend a meeting of the Inter-American Development Bank (IDB) in Washington, D.C. She emphasized that the meeting in question was not a tourist activity but an official meeting that was clearly "United Nations-related". She recalled General Assembly resolution 55/245 B of 25 July 2001 on the preparatory process for the International Conference on Financing for Development and the specific role mentioned therein for regional development banks such as IDB. She also made reference to the observer status enjoyed by IDB in the General Assembly and noted that the United States had co-sponsored the resolution giving it that status. She indicated that the host country had provided no explanation for the denial. She urged the host country to exercise greater scrutiny of such requests in accordance with the letter and spirit of the Headquarters Agreement. The representative of the host country responded that the meeting had been sponsored by IDB and not by the United Nations. He emphasized that the Headquarters Agreement only contained obligations regarding United Nations meetings. Cuban officials in Washington, D.C. had been available to represent Cuba at the meeting in question.

10. At the 211th meeting, the representative of the Russian Federation indicated that delays in the issuance of United States visas for representatives of certain Member States, including the Russian Federation, often impeded their ability to participate in United Nations meetings. While he recognized the right of the United States to control entry into its territory, especially after 11 September 2001, he characterized the three-week minimum requirement as extremely burdensome given that high-level delegations often needed to travel at very short notice, and expressed the hope that the United States Mission would resolve the situation in a manner which would facilitate his delegation's activities in the United Nations. The representative of Cuba referred to travel restrictions on Cuban nationals and diplomats and characterized the host country's policy as being politically motivated and contrary to the Convention on the Privileges and Immunities of the United Nations, the Headquarters Agreement and other international instruments; she reiterated her Government's appeal that the travel restrictions be lifted altogether. Regarding travel restrictions, the representative of Cuba also said that the host country had a policy of denying travel requests from Cuban diplomats beyond the 25-mile radius for their participation in events organized by universities and the like on issues relating to the work of the United Nations. In 2002, the Cuban mission had made three requests to participate in such academic conferences and all three requests had been denied. The representative of Cuba invited the host country to revise this practice. The Permanent Representative of the Libyan Arab Jamahiriya to the United Nations stated that Libyan diplomats also suffered from those travel restrictions. He characterized the three-week visa requirement as illogical, unreasonable and unacceptable. He stated that United Nations diplomats did not

come to New York as tourists or to break the laws of the host country; they were there to carry out their functions and, as such, should be treated in accordance with the applicable international agreements, including the Headquarters Agreement. The representative of Iraq, commenting on the issuance of entry visas, referred to a note verbale from the Permanent Mission of Iraq to the Chairman of the Committee (A/AC.154/351). He explained that the denial and delay of the issuance of visas to Iraqi delegations had become a real impediment to their work, contrary to the host country's obligations under the Convention on the Privileges and Immunities of the United Nations and the Headquarters Agreement. He called upon the Committee to ensure the fulfilment of the host country's obligation to facilitate the work of the permanent missions in accordance with international law. The representative of the host country reiterated that the Headquarters Agreement only contained obligations regarding United Nations meetings. He emphasized that the travel restrictions were imposed pursuant to United States legislation for national security reasons; such restrictions did not affect access or travel to official United Nations meetings. As such, there had been no violation of the host country's obligations and no conflict between those obligations and the national security concerns of the United States. He also mentioned that those policies were reviewed periodically.

11. Under the item entitled "Other matters", at the 212th meeting, the representative of Cuba reported that the host country had denied an entry visa to the Cuban expert on the Advisory Committee on Administrative and Budgetary Questions, thereby compromising the integrity of the work of the Advisory Committee. She further reported that Eusebio Leal Spengler, a Goodwill Ambassador of the United Nations Development Programme (UNDP) of Cuban nationality, who had been officially invited by the Secretary-General to take part in a Headquarters meeting of Goodwill Ambassadors on 18 and 19 June 2002, had also been denied a visa. She protested those incidents as violations of the Headquarters Agreement and called upon the host country to reconsider its position in the light of its obligations. The representative of Iraq stressed that, notwithstanding the negative tensions between the host country and certain Member States, such tensions should not have a negative impact on international rights and obligations under the Headquarters Agreement. He protested the denial of visas to the Iraqi delegation to the tenth session of the Preparatory Commission for the International Criminal Court. He stated that although Iraq fully cooperated with the application procedures, unacceptable delays seriously impeded the work of his mission, contrary to the text and spirit of the Headquarters Agreement. He requested the Secretary-General to intervene with the host authorities to facilitate the work of the Permanent Mission of Iraq and requested the Chairman of the Committee to intervene regarding visas for the fifty-seventh regular session of the General Assembly. The representative of Zimbabwe raised his mission's problems with obtaining re-entry visas in cases of emergency departures for personal or medical reasons and appealed to the host country to institute a new system of re-entry visas. The representative of the host country indicated that he would look into the matters raised by the representatives of Cuba and Zimbabwe. In response to the Iraqi representative's démarche concerning the tenth session of the Preparatory Commission for the International Criminal Court, he referred to the host country's position as set out in document A/AC.154/354.

12. Under "Other matters", at the 213th meeting, the representative of Cuba protested the unacceptable delay in the issuance of visas to two Foreign Ministry

officials accredited to the fifty-seventh session of the General Assembly. Although applications for such visas had been submitted on 19 August 2002, the United States Mission had not confirmed receipt until 11 October 2002, by which time the two delegates had missed a significant portion of the session. The host country noted that the aforementioned visa requests had clearly indicated that the two officials did not intend to arrive in New York until 6 October 2002.

## **B. Exemption from taxation**

13. At the 211th meeting, the Permanent Representative of the Libyan Arab Jamahiriya to the United Nations referred to his letters (A/AC.154/346, A/AC.154/347 and A/AC.154/348) concerning the tax demands made by the New York City authorities with respect to seven floors of Libya House. He expressed appreciation for the positive and forthcoming interventions by the United States Mission and the United States Department of State and emphasized Libya's interests in seeing the matter amicably resolved once and for all. Having accepted an offer of dialogue from the Office of the New York City Commissioner, the Libyan Arab Jamahiriya called upon the competent City authorities to desist from making any further tax demands and to recognize the official use of the seven floors concerned. Welcoming the positive intervention by the host country authorities, the representative of Iraq stated that the disposition of the matter would establish a precedent that affected all Member States and that the Committee should continue to follow the matter closely. Supporting Libya's claims as reasonable and fair, the representative of Cuba expressed the view that the prerogatives assumed by the City authorities would seem to exceed their jurisdiction and called upon them to resolve the matter in a satisfactory manner. The representative of Mali expressed support for a constructive dialogue between the parties with a view to achieving a positive resolution. The representative of the host country stated that the United States would continue to fulfil its obligations as host country and conscientiously seek to resolve all issues raised by the permanent missions and the Committee on Relations with the Host Country. With respect to the case at hand, he said that he had been in contact with the New York City Commission in connection with this particular case as well as on the taxation of diplomatic property in general. He said that he had listened closely to his colleagues, would be willing to meet with them personally to hear their concerns, and would take those concerns into his discussions with the City. The Chairman welcomed the constructive approach adopted by the Permanent Mission of the Libyan Arab Jamahiriya and the positive intervention by the host country. He expressed optimism about the prospects for an amicable and satisfactory solution.

14. Under "Other matters", at the 211th meeting, the representative of the Libyan Arab Jamahiriya also raised the matter of the ceilings imposed by the host country on the Libyan Mission's bank accounts. He reported that the Permanent Mission of the Libyan Arab Jamahiriya had raised the matter with the United States Mission to the United Nations bilaterally but that the host country had replied in a non-constructive manner. He alluded to the loss of Libya's vote in the General Assembly as well as to the burdensome procedures, budgetary requirements and currency exchange losses involved in the constant transfer of funds into the restricted accounts. He called upon the host country to lift the restrictions or at least to raise the ceiling. He also protested Libya's inability to use the official residence because it was located beyond the 25-mile radius permitted to representatives of his

Government. The representative of Malaysia expressed concern that the restrictions placed by the host country were unreasonable and urged the host country to consider lifting the ceilings on Libyan accounts. The representative of Cuba stated that the restrictions on Libya's accounts interfered with the work of the Libyan Mission, contrary to the host country's obligations, and should therefore be lifted. The representative of the host country acknowledged that the Permanent Mission of the Libyan Arab Jamahiriya had requested an increase or a lifting of the ceilings on the mission's bank accounts and reported that the request had been given serious consideration at a very senior level. Following review, the host country had determined that, for the time being, there was no reason to increase or lift the ceilings. The ceilings were, in his view, sufficiently high and Libya had the right to constantly replenish its accounts within those ceilings. He concluded by saying that periodical reviews were and would continue to be conducted and that, as such, the matter would be revisited. The representative of the Libyan Arab Jamahiriya expressed the view that the comments made by the representative of the host country did not adequately respond to the problems confronting his mission, in particular, difficulties in paying United Nations assessed contributions as well as its bills, maintenance costs and staff salaries. The Permanent Mission of the Libyan Arab Jamahiriya was using and would continue to use its dollars legally and with full respect for the laws and the national security of the host country. He called upon the Committee to seek a solution to the problem.

15. Under "Other matters", at the 212th meeting, the representative of the Libyan Arab Jamahiriya returned to the question of the taxation of Libya House in order to thank Ambassador Kennedy of the United States Mission for his intervention with the New York City Commission. The representative of the host country was pleased to report that the New York City Commission had accepted the position put forth by the United States State Department and that the United States Mission therefore considered the matter closed. The observer of Egypt indicated that his mission had sought the assistance of the United States Mission and the State Department in obtaining a refund from the competent City authorities of taxes which had been paid by Egypt under protest. The representative of the host country undertook to continue to press the City of New York on a refund of those taxes to Egypt. The representative of Hungary reported that his mission had had a long-standing issue with outstanding tax arrears and expressed gratitude for the assistance and guidance his mission had received from the United States Mission. He praised the recent interventions and decisive steps taken by the host country authorities and expressed the hope that the new impetus by the United States Mission would continue to resolve taxation matters in a satisfactory manner.

16. Under an item entitled "Status of Cuban bank transactions bound to the United Nations bank accounts for the payment of its assessment", at the 214th meeting, the representative of Cuba reported that her mission had received notification from CIBC, a Canadian Bank in Toronto that was entrusted with Cuba's payments to the United Nations bank accounts of Cuba's assessment to the United Nations, that JP Morgan Chase Bank would not receive payments originating from Cuba due to the United States economic blockade against Cuba. The Cuban Mission had requested the United States Mission to take the necessary steps to restore the normal flow of Cuban funds to United Nations bank accounts. She stated that it was her duty to report to the Committee this clear violation of the Headquarters Agreement and the Convention on the Privileges and Immunities. The representative of the host country

emphasized that the host country took its obligation to facilitate the work of the permanent missions very seriously. He regretted that although the matter had occurred nine days ago, on 23 October 2002, the Cuban Mission had only brought the matter to the attention of the United States Mission the day of the meeting. He assumed that the matter was due to a human error on the part of someone in the banking system and that it could have been resolved quickly without resort to the Committee had it been raised with the United States Mission in a timely manner. In any event, the United States Mission had already taken steps to investigate the situation. The representative of Cuba added that the Cuban Mission had only been advised of the problem the day before the meeting.

### **C. Transportation: use of motor vehicles, parking and related matters**

17. At the 212th meeting, the representative of the host country recalled that the Committee had mandated the host country to work with the City of New York in order to design a parking programme that would be transparent, non-discriminatory and consistent with international law. Further to discussions between the host city and the host country, the United States Mission was pleased to report that they had agreed on a Diplomatic Parking Programme which would enter into force on 1 November 2002. He stated that the Programme sought to reduce congestion, improve traffic flow and safety as well as to facilitate the official business of permanent missions and the United Nations itself. He expressed gratitude for Mayor Bloomberg's efforts and assured the Committee that the Parking Programme took into account and addressed the views expressed and concerns raised since 1997 by the United Nations diplomatic community, individual Member States, the Committee on Relations with the Host Country and the 1997 opinion of the Legal Counsel (A/AC.154/307). He expressed confidence that the Programme was consistent in all respects with the host country's obligations under international law. In particular, under the Parking Programme, each mission would be provided with: (a) two dedicated diplomatic parking spaces, (b) two non-transferable "service vehicle" decals, which would allow the vehicles bearing the decals to park in the two aforementioned spaces, and (c) one "delivery vehicle" decal to affix to a vehicle of its choice. The representative of the host country noted that the host city had never been able to guarantee parking for every one of the almost 2,500 diplomatic and consular vehicles registered in New York. The representative of the host country conveyed the City's assurances that if non-diplomatic vehicles were to park in the spaces reserved for the missions, they would be ticketed and the first available tow truck would be dispatched to remove them. He warned, as well, that if missions or their diplomats did not contest or satisfy tickets issued to them after 1 November 2002, the designated parking spaces and corresponding decals would be reduced by one (after 40 tickets) and then by two (after 65 tickets). Permanent missions might challenge tickets in a voluntary dispute resolution mechanism under which the City would set up special diplomatic review and appeals panels for diplomatic parking tickets. A training programme would be established for police officers and traffic enforcements agents. With respect to tickets issued between 1 April 1997 and 31 October 2002, the representative of the host country urged missions to avail themselves of the host city's offer to allow them to pay off their outstanding tickets at a significantly reduced rate. The representative of the host country concluded his statement by confirming the fact that most countries were in compliance with parking rules and regulations and the expectation that the Diplomatic Parking

Programme would remove the parking problem as a cause of tension in relations with the host city and as an impediment to the work of the missions.

18. The New York City Commissioner emphasized that the Mayor and the City would always seek to protect public safety as well as to facilitate the work of the permanent missions. She hailed the Diplomatic Parking Programme as an important step in reconciling those two important objectives.

19. The representative of Costa Rica thanked the representatives of the host country and the City and proposed that the Committee request the Legal Counsel to submit a legal opinion on the Diplomatic Parking Programme and its conformity with the host country's obligations under international law, including the Convention on the Privileges and Immunities of the United Nations, the Headquarters Agreement and the Vienna Convention. The representatives of China, Côte d'Ivoire, Cuba, the Libyan Arab Jamahiriya and the Russian Federation as well as the observers of Benin, Brazil, Egypt, Ghana, Kuwait, Pakistan, Singapore, the Syrian Arab Republic, Zambia and Zimbabwe supported the request for a legal opinion.

20. In addition, the representative of Côte d'Ivoire confirmed that the Vienna Convention required diplomats to respect the laws and regulations of the host State and indicated that the permanent missions had no intention of failing in their obligations. He expressed concern that the host country appeared to be presenting a *fait accompli*. Noting that the Parking Programme had been presented so close to the fifty-seventh regular session and calling for an adequate opportunity to study the Programme, he requested the host country to postpone its entry into force. The representative of the Russian Federation described the Diplomatic Parking Programme as "a step in the right direction" but indicated that, upon a preliminary analysis, it would appear that it purported to levy certain sanctions which might contravene international law; accordingly, he emphasized that the Parking Programme, like its predecessor, should be subject to close legal scrutiny in respect of the privileges and immunities of permanent missions and the obligations of the host country. The representative of Cuba noted much improvement from the 1997 parking programme but raised serious questions regarding elements of the current Programme which appeared to be enforcement measures and to subject permanent missions to the host city's jurisdiction. The representative of the Libyan Arab Jamahiriya stated that it was "a bit high-handed" to present the Parking Programme on such short notice, questioned the legality of the loss of parking spaces and the non-renewal of diplomatic plates, and emphasized that not all tickets were validly issued. The representative of China highlighted the gap between the available parking spaces and the needs of the permanent missions and expressed the view that the Programme's review and appeal procedures and its new restrictions on the right of permanent missions to use their vehicles for official purposes were contrary to international law and would impede the work of the permanent missions, in violation of article 25 of the Vienna Convention. He expressed the hope that the United States Mission would join Member States in resolving the matter amicably in order to ensure that the Diplomatic Parking Programme would not violate international law or interfere with the rights and obligations of permanent missions.

21. The observer of Brazil made reference to serious problems in the Diplomatic Parking Programme and upheld the host country's obligation to facilitate the work of the permanent missions. The observer of Ghana recognized the duty of diplomats

to respect local laws and regulations, but emphasized that the foregoing duty was without prejudice to the status, privileges and immunities of diplomats under international law. The observer of Benin expressed concern that the Diplomatic Parking Programme was being presented as a fait accompli. The observer of Egypt expressed concern about the legality of the administrative and financial penalties in the Programme. The observer of Kuwait confirmed that his mission issued strict instructions to its drivers and diplomats to respect local laws and regulations but expressed the view that nominal abuse by some should not justify a programme that might violate international law. The observer of Pakistan expected better treatment from the host city in the light of the US\$ 6 billion permanent missions spent annually in New York; pointing to the upcoming session of the General Assembly and the need to study the Diplomatic Parking Programme and the legal opinion relating thereto, he suggested that the matter be postponed until the new year. The observer of the Syrian Arab Republic stated that a number of negative elements in the Programme might impede the work of the permanent missions, contrary to the host country's obligations and to the Vienna Convention's prohibition on penalties. The observers of Ghana, Pakistan, Singapore and Zambia echoed concerns that most violations stemmed from inadequate parking space and the resort to double-parking in front of missions; they called for a broader approach and emphasized that the diplomats were law-abiding members of the New York community whose privileges and immunities should be fully respected. The observer of Zimbabwe expressed appreciation for the host country's efforts to resolve parking problems in New York, but stressed that the real problem was the invalid issuance of tickets.

22. The representative of the host country characterized the Diplomatic Parking Programme as "a huge step forward" which took into account the discussions in the Committee and its Working Group, bilateral meetings with Member States and the Legal Counsel's opinion in 1997. He expressed willingness to further discuss and/or clarify the provisions of the Programme but reminded those present that it would enter into force on 1 November 2002. He emphasized the City's offer of guaranteeing two parking spaces for each mission. He recalled that the Mayor himself had noted the economic and political advantages derived by the City of New York from the presence of diplomats. With respect to the jurisdiction of local authorities, he recalled that the resort to the review and appeals panels was not a waiver of privileges and immunities and that permanent missions were free to use notes verbales and diplomatic notes to the United States Mission in lieu of the City's forms. He emphasized that the host city would do its best to remove cars violating the designated mission spaces and that the reduction of spaces and the non-renewal or non-issuance of registrations would only arise if diplomats failed to pay their valid tickets or to contest the invalid ones. He also emphasized that towing was permissible in situations affecting public health and safety. Finally, he recommended that permanent missions seriously consider the City's offer to resolve prior outstanding fines at significantly reduced rates.

23. The Chairman concluded the discussion by noting that it had been lively and interesting. Having ascertained that the representative of Costa Rica's request for a legal opinion enjoyed a consensus in the Committee, the Chairman requested the Legal Counsel to provide a legal opinion on the conformity of the Diplomatic Parking Programme with international law.

24. At the 213th meeting, the Legal Counsel introduced the legal opinion that was contained in document A/AC.154/358. Drawing on the spirit conveyed by the Mayor

of the City of New York and the Secretary-General of the United Nations on the mutual benefit of good relations between the host city and the diplomatic community, he expressed the hope that the diplomatic community would assist the host city in addressing the parking problem and that the host city and the host country would ensure that their competent authorities respected the privileges and immunities of permanent missions. He reiterated the conclusion set out in his opinion that, while the normative provisions of the Diplomatic Parking Programme did not give rise to any objections under international law, the ultimate legality of the Programme would depend on the manner in which it operated in practice. He therefore recommended that the Committee review and assess the actual implementation of the Programme after a reasonable period of time. He also called upon the host city to ensure that traffic agents and police officers properly applied the Programme in good faith, fairly and without discrimination.

25. The representative of the host country indicated that the United States Mission had relied extensively on the legal opinion rendered in 1997 in formulating the provisions of the Diplomatic Parking Programme and, as such, was not surprised that the Legal Counsel had concluded that it raised no legal objection under international law. He agreed that the ultimate success of any parking programme would lie in its full, fair and non-discriminatory implementation. He stressed that the host country cared very much about the diplomatic community and would, in accordance with its obligation to facilitate the work of the permanent missions, ensure that the Programme was implemented in good faith at both the federal and the local levels. He stated that the Parking Programme would begin on 1 November 2002, by which date traffic agents and police officers would have received initial training. The representative of the host country also stated that the principle of "protest or pay" should guide Member States in approaching the Programme. He then turned to the clarifications sought in the legal opinion. In respect of paragraph 13 on existing parking spaces at the private residences of some of the permanent representatives, he stressed that in order to avoid discrimination among members, the host city and the host country could not undertake any commitment in that regard. He alluded to the possibility that, on a case-by-case basis, it might be possible to consider transferring one of the mission spaces to the permanent representative's residence. In respect of the time limits mentioned in paragraph 18 of the opinion, he stated that if a notice went unanswered within seven days it would be deemed unanswered; if such notice was appealed within the eighth and thirtieth days of its issuance, it would no longer be considered unanswered. He stated that in the event of an "abuse" of the review or appeals procedures, the United States Mission would bring the matter to the attention of the permanent representative concerned. In connection with paragraph 29, he confirmed that references to "suspension" had been eliminated from the Diplomatic Parking Programme, as circulated in his Mission's note verbale of 24 September 2002. Finally, with respect to paragraph 30 of the opinion, the representative of the host country confirmed that there would be no peremptory or mandatory action, and that the Parking Programme did not impose penalties or interest on any valid notices of parking violation. In any case of disagreement, the United States Mission would fully engage the City and the permanent mission concerned. The representative of the host country confirmed that most missions were in full compliance and urged the few that had outstanding tickets to seek a reasonable settlement with the City provided that the tickets in question had been validly issued. He recognized that although the Diplomatic Parking Programme might be legal, it might be considered inconvenient. In that

connection, he referred to paragraph 39 of the legal opinion, which emphasized that, given the realities in Manhattan, free on-street parking was more in the nature of a privilege than a right which flowed from the general statements on facilitation contained in the Vienna Convention and the Headquarters Agreement.

26. The representative of Côte d'Ivoire referred to the distinction between the legal and the practical perspectives. He recalled that diplomats had a duty, without prejudice to their privileges and immunities, to respect local laws and regulations and that the host country had an obligation to facilitate the work of the permanent missions. He questioned the conclusion that the legality of the Diplomatic Parking Programme depended on the manner in which it was implemented. In that connection, he queried the distinction in the opinion between the rule and the application of the rule. He characterized the non-renewal and non-issuance of diplomatic licence plates as illegal enforcement measures that violated both the immunity of diplomats and the property rights of permanent missions and their personnel. In particular, he noted that any diplomatic vehicle lacking diplomatic plates would become subject to search, seizure or confiscation, contrary to the immunity of such vehicles under the Vienna Convention. He stated that the review and appeal procedures constituted an administrative tribunal from whose jurisdiction the permanent missions were immune under international law; in his view, the submission of complaints through the United States Mission did not alter that fact. On a practical level, he was of the view that two parking spaces and one car were far from adequate to fulfil the host country's obligations to facilitate the work of the permanent missions and noted that smaller missions would not be able to afford private commercial parking. Recognizing the host country's sovereign right to regulate parking, he appealed to the host country to postpone the implementation of the Diplomatic Parking Programme.

27. The representative of China indicated that his delegation was not in full agreement with the legal opinion. He stated that the Diplomatic Parking Programme was far from adequate to facilitate the work of the permanent missions. In particular, he objected to the non-renewal and non-issuance of diplomatic licence plates as violations of the immunity of diplomats and a violation of the right of use and ownership of their property. As diplomatic agents and property could not be subject to executive, judicial, legislative or administrative action, he concluded that the non-renewal or non-issuance of diplomatic licence plates was an enforcement measure contrary to international law. Moreover, notwithstanding the proviso contained in paragraph 17 of the Parking Programme and the opportunity to contest tickets through the good offices of the United States Mission, the review and appeals panels would in fact subject permanent missions to the jurisdiction of local authorities. He called upon the host country to reconsider the entry into force of the Diplomatic Parking Programme; if not, China would be prepared to pursue the matter, including, if necessary, seeking an advisory opinion from the International Court of Justice.

28. The representative of Cuba reported that, despite the conclusions reached in the legal opinion, Cuba and other Member States were still of the view that the Diplomatic Parking Programme contained elements which were inconsistent with certain fundamental principles of international law. She stated that many of the provisions not only did not facilitate, but in fact impeded the work of the permanent missions. She also shared the view that the review and appeals procedure subjected permanent missions to the civil jurisdiction of the host country. She urged that consultations continue until agreement was reached on a Diplomatic Parking

Programme that was in conformity with the host country's obligations under international law. In her delegation's view, various elements in the Parking Programme amounted to measures of execution which constituted a violation of the privileges and immunities of diplomatic agents.

29. The representative of the Russian Federation recognized the right of the host country to regulate parking, but called for further dialogue between all interested parties and closer legal analysis of the Diplomatic Parking Programme before it entered into force. He stated that the legal opinion did not provide full answers to all the concerns raised by delegations. In particular, the legal opinion did not address the question of the apparent collective punishment of permanent missions for the behaviour of certain individuals. Noting the Legal Counsel's conclusion that the actual implementation of the Parking Programme might give rise to legal implications which would necessitate further review, he called for the elaboration of a parking programme which at the outset would meet all concerns. He also expressed the view that the non-renewal of diplomatic licence plates would constitute an enforcement measure contrary to the Vienna Convention and the Headquarters Agreement. He fully supported the proposed postponement of the entry into force of the Diplomatic Parking Programme.

30. The observer of Trinidad and Tobago, speaking on behalf of the Group of Latin American and Caribbean States, urged the host country to postpone the implementation of the Diplomatic Parking Programme to allow for further discussions on its legal and practical aspects. He stated that a postponement was necessary in order to reconcile the positions of Member States and to ensure respect for the privileges and immunities of permanent missions and the obligations of the host country under international law. The observer of the Islamic Republic of Iran sought a law-based and mutually acceptable solution to the parking problem in New York. He recalled that international law provided two fundamental principles to guide the discussion: the host country was obliged to facilitate the work of the permanent missions, and diplomats had a duty to respect local laws and regulations without prejudice to their privileges and immunities. To the extent that the effect of the Diplomatic Parking Programme on parking spaces at the private residences of permanent representatives needed further clarification, that the allocation of only two spaces per mission did not satisfy the full facilities required under the Vienna Convention, and that non-renewal or non-issuance of diplomatic licence plates constituted an impediment to the movement and work of diplomats and permanent missions, he concluded that the Diplomatic Parking Programme was not in harmony with the host country's obligations under international law. Moreover, he highlighted the unreasonableness of the timing of the Programme's implementation in the middle of the main part of the fifty-seventh session of the General Assembly. He fully supported the postponement of the entry into force of the Parking Programme in order to find a mutually acceptable solution. The observer of Turkey referred to a relationship of mutual benefit and responsibility between the host country and the diplomatic community and stated that the presentation of the Diplomatic Parking Programme as a *fait accompli* was not appropriate within the context of that relationship. Given the stated objectives of the Programme to reduce congestion and to facilitate the work of the permanent missions, he predicted that it would have no effect upon congestion and would actually negatively impact the work of the permanent missions. The effect of the Programme on residential parking spaces and the non-renewal of diplomatic licence plates raised a number of legal issues which

called into question the Programme's conformity with international law. He therefore echoed the call for postponing its implementation. The observer of Pakistan noted that there was a clear divergence of views on the legality of the Diplomatic Parking Programme; he urged the Committee to adopt a familial approach and to avoid legalities and technicalities. The observer of Egypt, speaking on behalf of the Group of African States, and the observers of Benin, Indonesia and Malaysia supported previous speakers and called for the postponement of the implementation of the Diplomatic Parking Programme.

31. The representative of the host country stated that he had listened intently to the concerns expressed by all delegations. He characterized the issues raised as primarily hypothetical and based on erroneous assumptions. He expressed the view that the dismal forecast would only materialize if large segments of the diplomatic community did not comply with the Programme. In reality, however, there were only a few transgressors. He alluded to the physical constraints and realities of New York City and noted that the host city could not guarantee more than two spaces per mission. In that connection, he pointed out that the Diplomatic Parking Programme would actually provide for a 20 per cent increase in available diplomatic parking in addition to the facilities available at the United Nations garage. He confirmed that there was no question of searching, seizing or confiscating diplomatic vehicles, that the review and appeals procedures explicitly did not constitute a submission to the jurisdiction of the City and that, as the Legal Counsel had concluded, the Diplomatic Parking Programme did not give rise to any enforcement measures or legal objections under international law. He recalled that consultations had been ongoing since 1997 with extensive discussion in the Committee and its Working Group and that a legal opinion had been issued with respect to the prior parking programme. Based on the foregoing, the permanent missions' parking needs had been defined and the legal parameters had been identified. He confirmed that the new Diplomatic Parking Programme addressed all concerns expressed during that process and that, as such, there was no question of a *fait accompli*. The host country had therefore complied with the needs expressed by the Committee and its Working Group and had removed the legal inconsistencies raised in the 1997 legal opinion. He confirmed that the Diplomatic Parking Programme would go into effect on 1 November 2002 and that, consistent with the advice of the Legal Counsel, it would be necessary to ensure its fair and non-discriminatory implementation. He agreed that dialogue should continue, but only on the question of how the Parking Programme was being implemented.

32. The representative of Côte d'Ivoire emphasized that he did not wish to politicize the matter. Having read the Diplomatic Parking Programme and the legal opinion thereon, however, he stated that most delegations were not entirely in agreement with every aspect of the legal opinion. Delegations had raised serious legal issues which had to be addressed. He called once again for the host country to inform the host city that the diplomatic community requested a postponement of the implementation date. In response, the representative of the host country undertook to discuss the matter with the New York City Commissioner, who had attended the meeting and had heard all the statements made. He indicated that the host country's response would thereafter be circulated by diplomatic note.

33. The Legal Counsel confirmed that he maintained his opinion that the Diplomatic Parking Programme did not raise any legal objection under international law. He emphasized that there was a need to monitor the actual operation of the

Programme, that there was a fine line between law and policy, and that it was necessary to take into account the role of the State Department. He once again called upon the host city to ensure that traffic agents and police officers applied the Diplomatic Parking Programme properly and in good faith. He expressed the view that the host country and the diplomatic community were on the threshold of finding a solution to the parking problem and the hope that, in the spirit conveyed by the Mayor and the Secretary-General, the matter would finally be resolved.

34. The Chairman concluded what he characterized as a lively and detailed discussion and indicated that the Committee would remain seized of this item on its agenda.

#### **IV. Recommendations and conclusions**

35. At its 214th meeting, on 1 November 2002, the Committee approved the following recommendations and conclusions:

(a) The Committee reaffirms the Headquarters Agreement and the provisions of the 1961 Vienna Convention on Diplomatic Relations and the 1946 Convention on the Privileges and Immunities of the United Nations;

(b) Considering that the maintenance of appropriate conditions of the delegations and the missions accredited to the United Nations is in the interest of the United Nations and all Member States, the Committee appreciates the efforts made by the host country to that end and anticipates that all issues raised at its meetings, including those referred to below, will be duly settled in a spirit of cooperation and in accordance with international law;

(c) The Committee notes that the observance of privileges and immunities is an issue of great importance. The Committee emphasizes the need to solve, through negotiations, problems that might arise in this regard for the normal functioning of the delegations and the missions accredited to the United Nations;

(d) Considering that the security of the missions accredited to the United Nations and the safety of their personnel are indispensable for their effective functioning, the Committee appreciates the efforts made by the host country to this end and anticipates that the host country will continue to take all measures necessary to prevent any interference with the functioning of missions;

(e) The Committee notes the opinion of the Legal Counsel of 24 September 2002 contained in document A/AC.154/358 concerning the "Parking Programme for Diplomatic Vehicles" contained in document A/AC.154/355, and the positions expressed on this issue during the 213th meeting of the Committee on 15 October 2002, including a request from most speakers to defer the implementation of the Parking Programme and the host country's commitment to maintain appropriate conditions for the functioning of the delegations and missions accredited to the United Nations in a manner that is fair, non-discriminatory, efficient and consistent with international law;

(f) The Committee requests the host country to continue to bring to the attention of New York City officials reports from the diplomatic community about cases of discriminatory treatment against diplomats in order to ameliorate the situation and to promote compliance with international norms concerning diplomatic

privileges and immunities, and to continue to consult with the Committee on these important issues; and requested the host country to also bring to the attention of the City's authorities the positions expressed on the "Parking Programme for Diplomatic Vehicles" by members of the Committee and other Member States;

(g) Recalling General Assembly resolution 43/172 of 9 December 1988, the Committee stresses the importance of a positive public perception of the presence and work of the United Nations, and urges that efforts be continued to build up awareness by explaining, through all available means, the importance of the role played by the United Nations and the missions accredited to it in the strengthening of international peace and security;

(h) The Committee recalls that, in accordance with paragraph 7 of General Assembly resolution 2819 (XXVI), the Committee shall consider, and advise the host country on, issues arising in connection with the implementation of the Agreement between the United Nations and the United States of America regarding the Headquarters of the United Nations;

(i) The Committee anticipates that the host country will continue to ensure the issuance, in a timely manner, of entry visas to representatives of Member States pursuant to article IV, section 11, of the Headquarters Agreement, including to attend official United Nations meetings;

(j) Concerning travel regulations issued by the host country with regard to personnel of certain missions and staff members of the Secretariat of certain nationalities, the Committee continues to urge the host country to remove the remaining travel restrictions as soon as possible; in that regard, the Committee also notes the positions of the affected Member States, of the Secretary-General and of the host country;

(k) The Committee stresses the importance of permanent missions, their personnel and Secretariat personnel meeting their financial obligations;

(l) The Committee welcomes the participation of Members of the United Nations in its work and emphasizes its importance. The Committee also welcomes the participation of representatives of the Secretariat in its work. The Committee is convinced that its important work has been strengthened by the cooperation of all concerned;

(m) The Committee wishes to reiterate its appreciation to the representative of the United States Mission in charge of host country affairs and to the Host Country Affairs Section of the United States Mission to the United Nations, as well as to those local entities, in particular the New York City Commission for the United Nations, Consular Corps and Protocol, that contribute to its efforts to help accommodate the needs, interests and requirements of the diplomatic community and to promote mutual understanding between the diplomatic community and the people of the City of New York.

## Annex I

### List of topics for consideration by the Committee

1. Question of the security of missions and the safety of their personnel.
2. Consideration of and recommendations on issues arising in connection with the implementation of the Agreement between the United Nations and the United States of America regarding the Headquarters of the United Nations, including:
  - (a) Entry visas issued by the host country;
  - (b) Acceleration of immigration and customs procedures;
  - (c) Exemption from taxes.
3. Responsibilities of permanent missions to the United Nations and their personnel, in particular the problem of claims of financial indebtedness and procedures to be followed, with a view to resolving the issues relating thereto.
4. Housing for diplomatic personnel and for Secretariat staff.
5. Question of privileges and immunities:
  - (a) Comparative study of privileges and immunities;
  - (b) Convention on the Privileges and Immunities of the United Nations and other relevant instruments.
6. Host country activities: activities to assist members of the United Nations community.
7. Transportation: use of motor vehicles, parking and related matters.
8. Insurance, education and health.
9. Public relations of the United Nations community in the host city and the question of encouraging the mass media to publicize the functions and status of permanent missions to the United Nations.
10. Consideration and adoption of the report of the Committee to the General Assembly.

## Annex II

### List of documents

- A/AC.154/346 Letter dated 21 March 2002 from the Permanent Representative of the Libyan Arab Jamahiriya to the United Nations addressed to the Chairman of the Committee on Relations with the Host Country (hereinafter, "the Chairman")
- A/AC.154/347 Letter dated 25 March 2002 from the Permanent Representative of the Libyan Arab Jamahiriya to the United Nations addressed to the Chairman
- A/AC.154/348 Letter dated 24 April 2002 from the Permanent Representative of the Libyan Arab Jamahiriya to the United Nations addressed to the Chairman
- A/AC.154/349 Letter dated 16 May 2002 from the Permanent Representative of Cuba to the United Nations addressed to the Chairman
- A/AC.154/350 Note verbale dated 19 April 2002 from the Permanent Mission of Belarus to the United Nations addressed to the Chairman
- A/AC.154/351 Note verbale dated 20 May 2002 from the Permanent Mission of Iraq to the United Nations addressed to the Chairman
- A/AC.154/352 Letter dated 30 May 2002 from the Minister-Counsellor for Host Country Affairs of the United States Mission to the United Nations addressed to the Chairman
- A/AC.154/353 Note verbale dated 15 July 2002 from the Permanent Mission of Iraq to the United Nations addressed to the Chairman
- A/AC.154/354 Note verbale dated 30 July 2002 from the United States Mission to the United Nations addressed to the Chairman
- A/AC.154/355 Letter dated 26 August 2002 from the Permanent Representative of Cyprus to the United Nations and Chairman of the Committee on Relations with the Host Country addressed to the Secretariat
- A/AC.154/356 Note verbale dated 27 August 2002 from the Permanent Mission of Iraq to the United Nations addressed to the Chairman
- A/AC.154/357 Letter dated 12 September 2002 from the Permanent Representative of Cuba to the United Nations addressed to the Chairman
- A/AC.154/358 Letter dated 24 September 2002 from the Chairman of the Committee on Relations with the Host Country addressed to the members of the Committee
- A/AC.154/359 Letter dated 24 October 2002 from the Minister-Counsellor for Host Country Affairs of the United States Mission to the United Nations addressed to the Chairman



